

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1028

AN ACT to amend the Indiana Code concerning firearms and self-defense.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-41-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A person is justified in using reasonable force against another person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force. However, a person:

- (1) is justified in using deadly force; ~~only~~ **and**
- (2) **does not have a duty to retreat;**

if the person reasonably believes that that force is necessary to prevent serious bodily injury to the person or a third person or the commission of a forcible felony. No person in this state shall be placed in legal jeopardy of any kind whatsoever for protecting the person or a third person by reasonable means necessary.

(b) A person:

- (1) is justified in using reasonable force, including deadly force, against another person; **and**
- (2) **does not have a duty to retreat;**

if the person reasonably believes that the force is necessary to prevent or terminate the other person's unlawful entry of or attack on the person's dwelling, ~~or~~ curtilage, **or occupied motor vehicle.**

(c) With respect to property other than a dwelling, ~~or~~ curtilage, **or an occupied motor vehicle**, a person is justified in using reasonable force against another person if the person reasonably believes that the

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force is necessary to immediately prevent or terminate the other person's trespass on or criminal interference with property lawfully in the person's possession, lawfully in possession of a member of the person's immediate family, or belonging to a person whose property the person has authority to protect. However, a person:

(1) is ~~not~~ justified in using deadly force; ~~unless and~~

(2) **does not have a duty to retreat;**

only if that force is justified under subsection (a).

(d) A person is justified in using reasonable force, including deadly force, against another person **and does not have a duty to retreat** if the person reasonably believes that the force is necessary to prevent or stop the other person from hijacking, attempting to hijack, or otherwise seizing or attempting to seize unlawful control of an aircraft in flight. For purposes of this subsection, an aircraft is considered to be in flight while the aircraft is:

(1) on the ground in Indiana:

(A) after the doors of the aircraft are closed for takeoff; and

(B) until the aircraft takes off;

(2) in the airspace above Indiana; or

(3) on the ground in Indiana:

(A) after the aircraft lands; and

(B) before the doors of the aircraft are opened after landing.

(e) Notwithstanding subsections (a), (b), and (c), a person is not justified in using force if:

(1) the person is committing or is escaping after the commission of a crime;

(2) the person provokes unlawful action by another person with intent to cause bodily injury to the other person; or

(3) the person has entered into combat with another person or is the initial aggressor unless the person withdraws from the encounter and communicates to the other person the intent to do so and the other person nevertheless continues or threatens to continue unlawful action.

(f) Notwithstanding subsection (d), a person is not justified in using force if the person:

(1) is committing, or is escaping after the commission of, a crime;

(2) provokes unlawful action by another person, with intent to cause bodily injury to the other person; or

(3) continues to combat another person after the other person withdraws from the encounter and communicates the other person's intent to stop hijacking, attempting to hijack, or otherwise seizing or attempting to seize unlawful control of an

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aircraft in flight.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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